

TABLE OF CONTENTS

Section

- .1 Purpose and Scope
- .2 Information
 - .2.1 General
 - .2.2 News Releases
 - .2.3 News Briefings
 - .2.4 Mailing List for News Releases and News Notes
 - .2.5 Inquiries from the News Media
- .3 Education
 - .3.1 General
 - .3.2 Criteria
 - .3.3 Clearance
 - .3.4 Preparation and Distribution of Educational Materials
- .4 Speeches
 - .4.1 Policy
 - .4.2 Clearance and Approval
 - .4.3 Reimbursement for Travel Expenses
 - .4.4 Notice to Regional Offices
- .5 Law Review Articles and Other Publications Prepared by the Staff
 - .5.1 Policy
 - .5.2 Clearance and Approval
- .6 Testimony before State Legislatures
 - See OM Chapter 14.2.3.7.

.1 PURPOSE AND SCOPE

This chapter provides policies and procedures for relations with the news media, clearance of speeches, and clearance of law review articles and other publications by the staff that are not official Commission publications.

.2 INFORMATION

.2.1 GENERAL

The basic premise underlying the Commission's public information program is the public's right to know what the Commission is doing, tempered by the parameters established by the FTC Act and the Commission's Rules. The Office of Public Affairs (OPA) is responsible for the following:

- (1) Informing the public, primarily through the communications media, about the Commission's public actions. This is done through the issuance of news releases and the publication of a weekly calendar and weekly *News Notes*.
- (2) Advising the Commission on public information policy.
- (3) Guiding and coordinating the public information programs of the regional offices.

Each regional office designates a member of the staff as its Public Information Officer, who is assigned public information responsibilities, ordinarily in addition to other duties.

.2.2 NEWS RELEASES

News releases are issued to inform the public of actions taken by the Commission, such as the issuance of complaints, decisions and orders, acceptance of consent agreements, promulgation of trade regulation rules (TRRs), and other significant actions. When a memorandum recommending such action is forwarded to the Commission, a copy is also circulated to OPA. OPA will, after consultation with staff and review by the appropriate Bureau Director, office head, or designee, prepare a news release appropriate to the Commission action, not necessarily the staff recommendation.

.2.3 NEWS BRIEFINGS

News briefings are held when:

- (1) The action or activity is highly significant.
- (2) The action or activity is so complex that explanation or interpretation would be helpful.
- (3) The activity or action is of such magnitude that it cannot be handled adequately by a news release alone (e.g., the issuance of a major complaint).

The decision to schedule a news briefing is made by the Director of Public Affairs with the concurrence of the appropriate Bureau Director and/or Regional Director.

.2.4 MAILING LIST FOR NEWS RELEASES AND NEWS NOTES

OPA maintains mailing lists for news releases and for the weekly *News Notes*. Information regarding these lists may be obtained from OPA, and names may be added to the lists by submitting them to OPA. Regional offices may maintain supplemental mailing lists for dissemination of news releases to local or regional media not covered by the headquarters mailing lists.

.2.5 INQUIRIES FROM THE NEWS MEDIA

Members of the staff often receive inquiries from the media regarding various actions taken by the Commission. Although OPA has primary responsibility for informing the media of Commission actions, there is no policy against communications between the staff and representatives of the media regarding matters of public record. In fact, it is often advantageous to explain to media representatives the technical aspects of the Commission's procedures, including the contents and effect of complaints and orders, trade regulation rules, and other public documents. Such explanations will often enable the media to report the Commission's actions with greater accuracy. Any such discussion, however, may include only information that has been released to the public.

Conversations between staff members and the media should be "for attribution and on the record." OPA and the appropriate Assistant/Associate Director, Regional Director, and Bureau Director or office head should be informed of all significant contacts between staff and the

news media.

Staff members should obtain the approval of Bureau Directors or office heads (headquarters staff) or the Executive Director (all other staff) and notify OPA before consenting to on-the-air interviews.

Certain Commission actions and records are made confidential by law and regulation and may not be revealed to or discussed with any person not a Commission employee. (See OM Ch. 15.) Except as set forth in OM Ch. 3.3.3.1, even when a proposed respondent in a nonpublic investigation makes a public disclosure that an investigation is being conducted, staff may neither acknowledge the existence of the investigation, nor discuss its purpose and scope or the nature of the suspected violation.

Complaint counsel and other staff engaged in trial should not comment on the merits of the matters in litigation. (See OM Ch. 10.5.3.) See Rule 3.6 of the American Bar Association's Model Rules of Professional Conduct.

Special care must be exercised regarding any comment or action that could effect the value of stock or other securities.

Any public out-of-court statements regarding ongoing litigation should contain no more information than is necessary to meet the Commission's responsibility for keeping the public informed. Allegations should be argued and proved in court, not in the media. Therefore, any public comment on such matters should minimize the possibility of prejudicial publicity and reflect care for the rights of the respondents.

For further guidance regarding responses to inquiries from the media, contact OPA.

3 EDUCATION

3.1 GENERAL

Any activity directed toward preparing and disseminating materials relevant to the Commission's enforcement activities, beyond issuing news releases and holding news briefings, may constitute an educational activity. Such activities may be conducted in connection with a specific enforcement program (e.g., warranties) or may be related more generally to the activities of the Commission. Educational activities may include the preparation, production, and distribution of explanatory

and interpretive materials (broad-cast, audio visual, and print), educational speeches, and the presentation of seminars, workshops, and similar programs for consumers, the business community, the bar, academic groups, and personnel of other government agencies, including state and local agencies.

3.2 CRITERIA

Educational activities are particularly appropriate when:

- (a) The purpose and impact of new laws and rules need to be published.
- (b) An industrywide practice creates a need for an "alert" to consumers. This type of educational effort may take the form of advising consumers about practical questions they should ask before making a purchase.
- (c) A significant contribution can be made to attaining enforcement objectives by explaining to relevant groups how to participate in certain Commission activities, such as the development of a trade regulation rule.
- (d) Commission enforcement activities can be enhanced by encouraging the business community to take voluntary action to eliminate unfair, misleading, or anticompetitive practices.

3.3 CLEARANCE

Any non-routine Bureau of Consumer Protection (BCP) educational activity should be cleared with the Assistant Director for Consumer and Business Education. The Assistant Director will evaluate and coordinate the project, assist with funding if necessary, and arrange for appropriate clearances. If written material is involved, guidance is available from the Office of Consumer and Business Education staff. They can provide advice to staff to help assure that:

- (a) the material will be easily understood by intended audience(s);
- (b) educational activities are coordinated within BCP and among the Regional Offices;
- (c) educational materials will be produced and distributed through established channels at the

- most effective time;
- (d) material prepared by BCP's Office of Consumer and Business Education and the Regional Offices, including broadcast projects, educational speeches, publications, and other material will be circulated for possible use by other offices;
- (e) there will be increased use of the mass media and of major trade and professional journals to inform the public of the availability of FTC educational materials; and
- (f) there will be an integrated effort to reach out to consumer, business, and media groups that are willing to aid the Commission in its efforts to educate consumers and the business community.

.3.4 PREPARATION AND DISTRIBUTION OF EDUCATIONAL MATERIALS

Regional Offices are encouraged to participate in the preparation and distribution of consumer and business educational materials and to do outreach and joint educational efforts, as time permits. However, any plans to develop or promote BCP educational materials first should be discussed with the Assistant Director for Consumer and Business Education. In this way, education efforts can be coordinated, funding needs can be assured, and publication requests can be met.

.4 SPEECHES

.4.1 POLICY

Headquarters and Regional Offices frequently receive requests for Commission personnel to speak before various organizations and groups. Speech requests received directly by Commission staff should be discussed with the appropriate Assistant/Associate Director, Bureau Director or Regional Director to determine whether referral of the request to another Bureau or office is appropriate. In considering all requests for public appearances, the staff must weigh the time and expense involved against the benefits expected to be achieved. Speeches must be based only on public information unless written authorization for

disclosure has been given by the General Counsel. Rule 5.12(c).

Any speech or other remarks must be prefaced by a statement that the opinions and views expressed are those of the staff member and do not necessarily reflect those of the Commission or any Commissioner.

.4.2 CLEARANCE AND APPROVAL

- (a) If a speech will be made without prepared text and involves only a discussion of current Commission activity or explanation of procedures regarding specific laws or regulations, acceptance of the request for the speech requires advance approval of the appropriate Assistant/Associate Director or Bureau Director for headquarters staff, or the appropriate Regional Director for Regional Office staff.
- (b) If a proposed speech will include a discussion of policy considerations, acceptance of the request for the speech should be cleared with the appropriate Bureau Director for Bureau staff, or the Executive Director for all other staff.
- (c) If a speech will be made with a prepared text, either because the requesting organization requires a prepared text or the staff believes a written speech should be prepared, acceptance of the request advance approval of the appropriate Bureau Director or office head for headquarters staff, or the Executive Director for all other staff. A written text is ordinarily appropriate if the speech will go beyond the purposes set forth in .4.2(a), above.

A memorandum requesting authorization to accept the invitation to speak and explaining the purpose of and justification for the speech should be submitted to the Bureau Director or office head via the Assistant/Associate Director (headquarters staff) or the Executive Director via the office head (all other staff). If authorization is granted, two copies of the prepared text must be submitted to the Bureau Director, office head or Executive Director, as appropriate, for clearance before the speech is delivered. The executive Director will consult with

the appropriate Bureau Director on clearance

requests for speeches involving bureau policy.

.4.3 REIMBURSEMENT FOR TRAVEL
EXPENSES

Commission staff may not accept reimbursement for official travel or other expenses from non-government sources, except that approval may be obtained to accept reimbursement from entities that are exempt from taxation under 26 U.S.C. 501(c)(3). Rule 5.11(e) (See AM 2.300.)

.4.4 NOTICE TO REGIONAL OFFICES

So that Regional Offices may answer inquiries from news media or the public, headquarters personnel who plan to make a speech, participate in a program, attend a conference or conduct other Commission business in the field, should inform the appropriate Regional Director, preferably at least 24 hours in advance, of the nature and purpose of the visit.

.5 LAW REVIEW ARTICLES AND OTHER
PUBLICATIONS PREPARED BY THE STAFF

.5.1 POLICY

The staff may write law review articles and other articles based upon information that has been publicly disclosed by the Commission. Although any biographical note submitted in connection with such writings may identify the author as a Commission employee, the text must state explicitly that the views expressed are those of the individual and do not constitute the views of the Commission or any individual Commissioner. Any articles or other writings may not disclose

nonpublic information unless written authorization has been given by the General Counsel under Rule 5.12(c).

.5.2 CLEARANCE AND APPROVAL

Any law review article or other writing concerning the activities of the Commission prepared by staff members on their own time and without reliance on government resources should be submitted to the Bureau Director or Office Head after publication.

When material will be written on government time or using government resources, prior approval for the project is required. Approval may be obtained by submitting a memorandum containing an outline of the proposed article and a time and resource expenditure estimate via the Assistant/Associate Director to the Bureau Director or office head (headquarters staff), or via the Regional Director to the Executive Director (all other staff), as appropriate. The executive Director will consult with the appropriate Bureau Director on clearance request for articles involving Bureau policy. Approval of the final text must be obtained prior to submission for publication.

An information copy of every article or other writing concerning the activities of the Commission prepared by the staff members shall be filed with OPA by the Bureau Director, Office Head or Executive Director.

.6 TESTIMONY BEFORE STATE
LEGISLATURES

(See OM Chapter 14.2.3.7)